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**Submitted via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)**

March 11, 2011

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street 24<sup>th</sup> floor  
Sacramento, CA 95814

Subject: Comment Letter – Caltrans MS4 Permit

Dear Ms. Townsend:

This letter is submitted on behalf of the Santa Clara Valley Urban Runoff Pollution Prevention Program (Program) regarding the California Department of Transportation (Caltrans) NPDES Stormwater Permit Tentative Order (Tentative Order). The Program is an association of 13 cities and towns in the Santa Clara Valley, the Santa Clara County and the Santa Clara Valley Water District. Program participants are regulated under a regional NPDES permit to discharge municipal stormwater to local receiving waters and the San Francisco Bay.

Since its inception, the Program has been a recognized leader in stormwater management and monitoring in the San Francisco Bay region, and continues to be dedicated to improving the quality of our water bodies. Caltrans is an essential partner with the Program in helping to address the impacts associated with stormwater runoff in Santa Clara County, and it will play a key role in achieving trash load reductions and implementing Total Maximum Daily Loads (TMDLs) for pesticides toxicity, mercury, and Polychlorinated Biphenyls (PCBs). Caltrans owns and operates the vast majority of freeways and other major roadways within the County.

The Program supports the Tentative Order with the proposed modifications and additions described below, which are largely intended to provide consistency between the requirements in the Bay Area Municipal Regional Stormwater Permit (MRP) and the Tentative Order.

### **Trash Load Reduction Requirements (Attachment V – Part 2: San Francisco Bay Region)**

N-1 → The Program supports the San Francisco Bay Region Attachment V requirements for Trash Load Reduction contained in the Tentative Order. It is absolutely essential that the State Board's NPDES permit include the control and removal of trash and litter from State facilities and right-of-ways. It is obvious that trash and litter from Caltrans' facilities are transported to local agency facilities via wind as well as through the many connections between storm drainage systems. It is essential that the NPDES permit requirements for trash and litter control

in the Tentative Order be adopted consistent with those contained in the San Francisco Regional Board's MRP (Order R2-2009-0074 adopted October 14, 2009).

**N-2** → **Pesticides Toxicity Reduction**

Additional requirements for reducing pesticide-related toxicity in Bay Area urban creeks should be included in the Tentative Order. These requirements are needed to provide consistency with the Bay Area MRP and the San Francisco Bay Water Quality Control Plan (Basin Plan). The Water Quality Attainment Strategy and TMDL for Diazinon and Pesticide-Related Toxicity in Urban Creeks that was incorporated into the Basin Plan states that implementation requirements consistent with the TMDL will be included in future NPDES permits. Requirements associated with this TMDL that are currently in the Tentative Order are limited to merely submitting a Pesticide-Related Toxicity Control Program plan with the Year 2 Annual Report and implementing that plan with no specified compliance dates.

The Tentative Order should specify required components of the Pesticide-Related Toxicity Control Program. In the Bay Area, municipal permittees are required to implement the following actions, per Provision C.9 of the MRP:

1. Adopt and implement an Integrated Pest Management (IPM) policy or ordinance;
2. Annually report trends in quantities and types of pesticides used and reasons for increases in use of pesticides threatening water quality;
3. Train employees in the use of IPM practices;
4. Require contractors to implement IPM, either by hiring IPM-certified contractors or including contract specifications to implement IPM;
5. Track and participate in relevant regulatory processes;
6. Interface with County Agricultural Commissioners;
7. Evaluate effectiveness of source control measures relating to pesticides; and
8. Conduct public outreach.

All of these actions, with the possible exception of public outreach, should also be conducted by Caltrans as part of its responsibilities for addressing allocations for pesticides causing toxicity in urban creeks in the Bay Area.

The requirements in Provision C.9 of the MRP are provided in Attachment 1 to this letter. **The Program requests that similar language for pesticides toxicity controls be added to Attachment V - Part 2: San Francisco Bay Region portion of the Tentative Order or to Attachment IV.**

The addition of these requirements should make Caltrans' obligations for its facilities and right-of-ways identical to those of the municipalities in which Caltrans facilities are located and would clarify Caltrans' responsibilities for pesticide-related toxicity control.

**Mercury and PCBs (Attachment V – Part 2: San Francisco Bay Region)**

Attachment IV (TMDL Requirements under R2 – San Francisco Bay Regional Water Board) of the Tentative Order contains a number of requirements that are similar to those contained in the MRP. The Program supports the inclusion of these requirements in the Caltrans NPDES permit.

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We hope you find these comments and suggested improvements useful. Please contact me at (510) 832-2852 if you have questions regarding the comments or suggested changes. We look forward to continuing to work with Caltrans on stormwater-related projects in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam W. Olivieri", followed by a horizontal line extending to the right.

Adam Olivieri, Dr. PH, P.E.  
SCVURPPP Program Manager

cc: Bruce Wolfe, SFB Water Board  
Tom Mumley, SFB Water Board  
SCVURPPP Management Committee

## **Attachment 1**

**MRP Provision C.9 Pesticides Toxicity Control**

## C.9. Pesticides Toxicity Control

To prevent the impairment of urban streams by pesticide-related toxicity, the Permittees shall implement a pesticide toxicity control program that addresses their own and others' use of pesticides within their jurisdictions that pose a threat to water quality and that have the potential to enter the municipal conveyance system. This provision implements requirements of the TMDL for Diazinon and Pesticide related Toxicity for Urban Creeks in the region. The TMDL includes urban runoff allocations for Diazinon of 100 ng/l and for pesticide related toxicity of 1.0 Acute Toxicity Units (TUa) and 1.0 Chronic Toxicity Units (TUc) to be met in urban creek waters. However, urban runoff management agencies (i.e., the Permittees) are not solely responsible for attaining the allocations because their authority to regulate pesticide use is constrained by federal and State law. Accordingly, the Permittees' requirements for addressing the allocations are set forth in the TMDL implementation plan and are included in this provision.

Pesticides of concern include: organophosphorous pesticides (chlorpyrifos, diazinon, and malathion); pyrethroids (bifenthrin, cyfluthrin, beta-cyfluthrin, cypermethrin, deltamethrin, esfenvalerate, lambda-cyhalothrin, permethrin, and tralomethrin); carbamates (e.g., carbaryl); and fipronil. The Permittees may coordinate with BASMAA, the Urban Pesticide Pollution Prevention Project, the Urban Pesticide Committee, the Bay-Friendly Landscaping and Gardening Coalition, and other agencies and organizations in carrying out these activities.

### C.9.a. Adopt an Integrated Pest Management (IPM) Policy or Ordinance

- i. **Task Description** – In their IPM policies or ordinances, the Permittees shall include provisions to minimize reliance on pesticides that threaten water quality and to require the use of IPM in municipal operations and on municipal property.
- ii. **Implementation Level** – If not already in place, the Permittees shall adopt IPM policies or ordinances no later than July 1, 2010.
- iii. **Reporting** – The Permittees shall submit a copy of their IPM ordinance(s) or policy(s) in their 2010 Annual Report.

### C.9.b. Implement IPM Policy or Ordinance

- i. **Task Description** – The Permittees shall establish written standard operating procedures for pesticide use that ensure implementation of the IPM policy or ordinance and require municipal employees and contractors to adhere to the IPM standard operating procedures.
- ii. **Reporting**
  - (1) In their Annual Reports, the Permittees shall report on IPM implementation by showing trends in quantities and types of pesticide used, and suggest reasons for increases in use of pesticides that threaten water quality, specifically organophosphorous pesticides, pyrethroids, carbaryl, and fipronil.

- (2) The Permittees shall maintain pesticide application standard operating procedures and submit them upon request.

**C.9.c. Train Municipal Employees**

- i. Task Description** – The Permittees shall ensure that all municipal employees who, within the scope of their duties, apply or use pesticides that threaten water quality are trained in IPM practices and the Permittee’s IPM policy. This training may also include other training opportunities such as Bay-Friendly Landscape Maintenance Training & Qualification Program and EcoWise Certified.
- ii. Reporting**
  - (1) In their Annual Reports, the Permittees shall report the percentage of municipal employees who apply pesticides who have received training in IPM policy and IPM standard operating procedures within the last three years.
  - (2) The Permittees shall submit training materials (e.g., course outline, date, attendees) upon request.

**C.9.d. Require Contractors to Implement IPM**

- i. Task Description** – The Permittees shall hire IPM-certified contractors or include contract specifications requiring contractors to implement IPM no later than July 1, 2010.
- ii. Reporting** – In their Annual Reports, the Permittees shall submit documentation to confirm compliance, such as the Permittee’s standard contract specification or copy of contractors’ certification(s).

**C.9.e. Track and Participate in Relevant Regulatory Processes** (may be done jointly with other Permittees, such as through CASQA or BASMAA and/or the Urban Pesticide Pollution Prevention Project)

- i. Task Description**
  - (1) The Permittees shall track USEPA pesticide evaluation and registration activities as they relate to surface water quality, and when necessary, encourage USEPA to coordinate implementation of the Federal Insecticide, Fungicide, and Rodenticide Act and the CWA and to accommodate water quality concerns within its pesticide registration process;
  - (2) The Permittees shall track California Department of Pesticide Regulation (DPR) pesticide evaluation activities as they relate to surface water quality, and when necessary, encourage DPR to coordinate implementation of the California Food and Agriculture Code with the California Water Code and to accommodate water quality concerns within its pesticide evaluation process;
  - (3) The Permittees shall assemble and submit information (such as monitoring data) as needed to assist DPR and County Agricultural Commissioners in

ensuring that pesticide applications comply with water quality standards;  
and

- (4) As appropriate, the Permittees shall submit comment letters on USEPA and DPR re-registration, re-evaluation, and other actions relating to pesticides of concern for water quality.

- ii. **Reporting** – In their Annual Reports, the Permittees who participate in a regional effort to comply with C.9.e. may reference a regional report that summarizes regional participation efforts, information submitted, and how regulatory actions were affected. All other Permittees shall list their specific participation efforts, information submitted, and how regulatory actions were affected.

**C.9.f. Interface with County Agricultural Commissioners**

- i. **Task Description** – The Permittees shall maintain regular communications with county agricultural commissioners (or other appropriate State and/or local agencies) to (1) get input and assistance on urban pest management practices and use of pesticides, (2) inform them of water quality issues related to pesticides, and (3) report violations of pesticide regulations (e.g., illegal handling) associated with stormwater management.
- ii. **Reporting** – In their Annual Reports, the Permittees shall summarize improper pesticide usage reported to county agricultural commissioners and report follow-up actions to correct violations.

**C.9.g. Evaluate Implementation of Source Control Actions Relating to Pesticides**

- i. **Task Description** – The Permittees shall evaluate the effectiveness of the control measures implemented, evaluate attainment of pesticide concentration and toxicity targets for water and sediment from monitoring data (Provision C.8.), and identify improvements to existing control measures and/or additional control measures, if needed, to attain targets with an implementation time schedule.
- ii. **Reporting** – In their 2013 Annual Reports, the Permittees shall report the evaluation results, and if needed, submit a plan to implement improved and/or new control measures.

**C.9.h. Public Outreach** (may be done jointly with other Permittees, such as through CASQA or BASMAA and/or the Urban Pesticide Pollution Prevention Project or the Bay-Friendly Landscaping and Gardening Coalition).

- i. **Point of Purchase Outreach:** The Permittees shall:
  - (1) Conduct outreach to consumers at the point of purchase;
  - (2) Provide targeted information on proper pesticide use and disposal, potential adverse impacts on water quality, and less toxic methods of pest prevention and control; and

- (3) Participate in and provide resources for the “Our Water, Our World” program or a functionally equivalent pesticide use reduction outreach program.
- ii. **Reporting** – In their Annual Reports, the Permittees who participate in a regional effort to comply with C.9.h.i. may reference a report that summarizes these actions. All other Permittees shall summarize activities completed and document any measurable awareness and behavior changes resulting from outreach.
- iii. **Pest Control Contracting Outreach:** The Permittees shall conduct outreach to residents who use or contract for structural or landscape pest control and shall:
  - (1) Provide targeted information on proper pesticide use and disposal, potential adverse impacts on water quality, and less toxic methods of pest prevention and control, including IPM;
  - (2) Incorporate IPM messages into general outreach;
  - (3) Provide information to residents about “Our Water, Our World” or functionally equivalent program;
  - (4) Provide information to residents about EcoWise Certified IPM certification in Structural Pest Management, or functionally equivalent certification program; and
  - (5) Coordinate with household hazardous-waste programs to facilitate appropriate pesticide waste disposal, conduct education and outreach, and promote appropriate disposal.
- iv. **Reporting** – In their 2013 Annual Reports, the Permittees who participate in a regional effort to comply with C.9.h.iii. may reference a report that summarizes these actions. All other Permittees shall document the effectiveness of their actions in their 2013 Annual Reports. This documentation may include percentages of residents hiring certified IPM providers and the change in this percentage.
- v. **Outreach to Pest Control Operators:** The Permittees shall conduct outreach to pest control operators (PCOs) and landscapers; Permittees are encouraged to work with DPR, county agricultural commissioners, UC-IPM, BASMAA, the Urban Pesticide Committee, the EcoWise Certified Program (or functionally equivalent certification program), the Bio-integral Resource Center and others to promote IPM to PCOs and landscapers.
- vi. **Reporting** – In each Annual Report, the Permittees who participate in a regional effort to comply with C.9.h.v. may reference a report that summarizes these actions. All other Permittees shall summarize how they reached PCOs and landscapers and reduced pesticide use.